

1 A bill to be entitled
2 An act relating to the enforcement of immigration laws;
3 providing a short title; providing a directive to the
4 Division of Statutory Revision; creating s. 820.01, F.S.;
5 providing legislative intent; creating s. 820.02, F.S.;
6 prohibiting the state or its political subdivisions from
7 limiting or restricting the enforcement of federal
8 immigration laws; providing that the state or its
9 political subdivisions may not be prohibited from
10 maintaining or exchanging information regarding
11 immigration status for certain purposes; providing for
12 enforcement and penalties; authorizing a law enforcement
13 officer to determine immigration status under certain
14 circumstances; providing that an alien who is in this
15 state and is unlawfully present in the United States
16 commits a misdemeanor of the second degree; providing
17 penalties; requiring implementation consistent with
18 federal law; prohibiting law enforcement officers from
19 using race, color, or national origin in the enforcement;
20 creating s. 820.03, F.S.; providing definitions; requiring
21 every employer to use the federal E-Verify system to
22 verify the employment eligibility of each employee on or
23 after a specified date; prohibiting an employer from
24 knowingly employing an unauthorized alien; requiring that
25 each verification be made in accordance with certain
26 provisions of federal law; authorizing certain persons to
27 file a complaint with the licensing agency alleging that
28 an employer has employed an unauthorized alien; providing

29 | for enforcement and penalties; providing that an employer
30 | is not liable for hiring, refusing to hire, or terminating
31 | an employee under certain conditions; authorizing an
32 | employer or employee to seek an injunction under certain
33 | circumstances; authorizing certain persons to file a
34 | complaint with the state attorney or Attorney General
35 | alleging that an employer has employed an unauthorized
36 | alien; authorizing enforcement by the state attorney and
37 | Attorney General; providing penalties; prohibiting the
38 | filing of a complaint based on race, color, or national
39 | origin; providing that a person who knowingly files a
40 | false and frivolous complaint commits a misdemeanor of the
41 | second degree; providing for construction; transferring
42 | and renumbering s. 448.09, F.S., relating to a prohibition
43 | on employment of unauthorized aliens; creating s. 287.135,
44 | F.S.; providing definitions; requiring public employers to
45 | use the federal E-Verify system to verify the employment
46 | eligibility of each employee; prohibiting a public
47 | employer from knowingly employing an unauthorized alien;
48 | providing that a public employer is not liable for hiring,
49 | refusing to hire, or terminating an employee under certain
50 | conditions; prohibiting public employers from entering
51 | into a contract for contractual services with contractors
52 | that are not registered and participating in the federal
53 | E-Verify system; prohibiting certain contractors and
54 | subcontractors from knowingly employing an unauthorized
55 | alien; providing procedures and requirements; providing
56 | that certain contractors and subcontractors are not liable

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57 | for hiring, refusing to hire, or terminating an employee
58 | under certain conditions; providing for enforcement
59 | without regard to race, color, or national origin;
60 | creating s. 337.163, F.S.; providing definitions;
61 | prohibiting the Department of Transportation from entering
62 | into certain contracts with contractors that are not
63 | registered and participating in the federal E-Verify
64 | system; prohibiting certain contractors and subcontractors
65 | from knowingly employing an unauthorized alien; providing
66 | procedures and requirements; creating a rebuttable
67 | presumption that certain contractors and subcontractors
68 | did not knowingly employ an unauthorized alien; providing
69 | for enforcement without regard to race, color, or national
70 | origin; amending s. 901.15, F.S.; providing an additional
71 | instance whereby an arrest may be made by a law
72 | enforcement officer without a warrant; amending s.
73 | 903.046, F.S.; providing additional criteria for the court
74 | to consider when determining whether to release a
75 | defendant on bail or other conditions; creating s.
76 | 921.245, F.S.; providing for enhanced maximum criminal
77 | penalties when an offense is committed by an alien
78 | unlawfully present in the United States; providing
79 | severability; providing legislative findings of public
80 | necessity; providing effective dates.

81 |
82 | Be It Enacted by the Legislature of the State of Florida:
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84 Section 1. Short title.—This act may be cited as the
85 "Florida Immigration Enforcement Act."

86 Section 2. The Division of Statutory Revision is directed
87 to create chapter 820, Florida Statutes, to be entitled
88 "IMMIGRATION ENFORCEMENT."

89 Section 3. Section 820.01, Florida Statutes, is created to
90 read:

91 820.01 Intent.—The Legislature finds that there is a
92 compelling interest in the cooperative enforcement of federal
93 immigration laws throughout the state. The Legislature declares
94 that the intent of this chapter is to discourage and deter the
95 unlawful entry and presence of aliens in this state. The
96 provisions of this chapter are intended to work together to
97 accomplish this purpose.

98 Section 4. Section 820.02, Florida Statutes, is created to
99 read:

100 820.02 Cooperation and assistance in enforcement of
101 immigration laws.—

102 (1) (a) An official or agency of this state or a county,
103 municipality, or other political subdivision of this state may
104 not limit or restrict the enforcement of federal immigration
105 laws to less than the full extent permitted by federal law.

106 (b) Except as provided in federal law, officials or
107 agencies of this state and counties, municipalities, and other
108 political subdivisions of this state may not be prohibited or in
109 any way be restricted from sending, receiving, or maintaining
110 information relating to the immigration status, lawful or
111 unlawful, of any individual or exchanging that information with

112 any other federal, state, or local governmental entity for the
 113 following official purposes:

114 1. Determining eligibility for any public benefit,
 115 service, or license provided by the Federal Government, the
 116 state, or any county, municipality, or other political
 117 subdivision of this state.

118 2. Verifying any claim of residence or domicile if
 119 determination of residence or domicile is required under federal
 120 law, the laws of this state, or a judicial order issued pursuant
 121 to a civil or criminal proceeding in this state.

122 3. If the person is an alien, determining whether the
 123 person is in compliance with the federal registration laws
 124 prescribed by Title II, Chapter 7 of the federal Immigration and
 125 Nationality Act.

126 4. Complying with 8 U.S.C. ss. 1373 and 1644.

127 (c)1. The Attorney General may enforce this subsection if
 128 there is reasonable cause to believe that this subsection has
 129 been violated and may commence a civil or administrative action
 130 and, in addition to the penalty provided in this subparagraph,
 131 may seek such other relief as may be appropriate. If there is a
 132 judicial finding that an entity has violated this subsection,
 133 the court shall order that the entity pay a civil penalty of not
 134 less than \$500 and not more than \$5,000 for each day that the
 135 policy remains in effect after the filing of an action under
 136 this subsection.

137 2. The court shall collect the civil penalty prescribed in
 138 subparagraph 1. and deposit the moneys in the Violent Crime
 139 Investigative Emergency and Drug Control Strategy Implementation

140 Account within the Department of Law Enforcement Operating Trust
141 Fund pursuant to s. 943.042.

142 (2) (a) 1. A reasonable attempt may be made to determine the
143 immigration status of a person who is the subject of a criminal
144 investigation by a law enforcement official or a law enforcement
145 agency of this state or of a county, municipality, or other
146 political subdivision of this state, if reasonable suspicion
147 exists that the person is an alien and is unlawfully present in
148 the United States.

149 2. A reasonable attempt shall be made to determine the
150 immigration status of a person who is arrested by a law
151 enforcement official or a law enforcement agency of this state
152 or of a county, municipality, or other political subdivision of
153 this state before the person is released, if reasonable
154 suspicion exists that the person is an alien and is unlawfully
155 present in the United States.

156 (b) Immigration status shall be verified under this
157 subsection with the Federal Government pursuant to 8 U.S.C. s.
158 1373(c). If the person's status is reported by the Federal
159 Government as unlawfully present in the United States, the law
160 enforcement official or law enforcement agency must, as soon as
161 practicable, report that person to the United States Immigration
162 and Customs Enforcement or the United States Customs and Border
163 Protection.

164 (3) An alien who is in this state and is unlawfully
165 present in the United States commits a misdemeanor of the second
166 degree, punishable as provided in s. 775.082 and by a fine not
167 to exceed \$100. For a first violation of this subsection, the

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168 court may not sentence the person to more than 20 days in jail.
169 For a second or subsequent violation, the court may not sentence
170 the person to more than 30 days in jail.

171 (4) A state or local correctional facility shall
172 immediately notify the United States Immigration and Customs
173 Enforcement or the United States Customs and Border Protection
174 prior to the discharge from imprisonment of an alien unlawfully
175 present in the United States.

176 (5) In the implementation of this section, an alien's
177 immigration status may be determined by:

178 (a) A law enforcement officer who is authorized by the
179 Federal Government to verify or ascertain an alien's immigration
180 status.

181 (b) The United States Immigration and Customs Enforcement
182 or the United States Customs and Border Protection pursuant to 8
183 U.S.C. s. 1373(c).

184 (6) This section shall be implemented in a manner
185 consistent with federal laws regulating immigration, protecting
186 the civil rights of all persons, and respecting the privileges
187 and immunities of United States citizens. A law enforcement
188 official or agency of this state or a county, municipality, or
189 other political subdivision of this state may not consider race,
190 color, or national origin in the enforcement of this section
191 except to the extent permitted by the United States Constitution
192 or the State Constitution.

193 Section 5. Effective July 1, 2012, section 820.03, Florida
194 Statutes, is created to read:

195 820.03 Use of E-Verify system required for private

196 employers; licensing enforcement.-

197 (1) DEFINITIONS.-As used in this section, the term:

198 (a) "Agency" means an agency, department, board, or
 199 commission of this state or a county, municipality, or political
 200 subdivision issuing a license for the purpose of operating a
 201 business in this state.

202 (b) "E-Verify system" means the Employment Authorization
 203 Program, formerly the "Basic Pilot Program," under Pub. L. No.
 204 104-208, Division C, Title IV, Subtitle A, s. 403, 110 Stat.
 205 3009-655 (Sept. 30, 1996), as amended, or any successor program
 206 designated by the Federal Government for verification that an
 207 employee is an employment-authorized alien.

208 (c) "Employee" means any person who performs employment
 209 services in this state for an employer pursuant to an employment
 210 relationship between the person and employer. An employee does
 211 not include an independent contractor.

212 (d) "Employer" means any person or entity transacting
 213 business in this state that employs individuals. The term does
 214 not include:

215 1. A government employer;
 216 2. The occupant or owner of a private residence who hires
 217 casual domestic labor to perform work customarily performed by a
 218 homeowner entirely within a private residence;

219 3. That portion of labor and services provided to a person
 220 or entity by a licensed independent contractor; or

221 4. An employee leasing company licensed pursuant to part
 222 XI of chapter 468 that enters into a written agreement or
 223 understanding with its client company which places the primary

224 obligation for compliance with this part upon its client
225 company. In the absence of a written agreement or understanding,
226 the contracting party, whether the licensed employee leasing
227 company or client company, that initially hires the leased
228 employee is responsible for the obligations set forth in this
229 part. Such employee leasing company shall, at all times, remain
230 an employer as otherwise specified by law.

231 (e) "Knowingly employ an unauthorized alien" has the same
232 meaning as prescribed in 8 U.S.C. s. 1324a. The term shall be
233 interpreted consistently with 8 U.S.C. s. 1324a and any federal
234 rule or regulation applicable to the unlawful employment of
235 aliens.

236 (f) "License" means a license, permit, certificate,
237 approval, registration, charter, or similar form of
238 authorization required by law and issued by an agency for the
239 purpose of operating a business. A license includes, but is not
240 limited to:

241 1. Articles of incorporation.

242 2. A certificate of partnership, a partnership
243 registration, or articles of organization.

244 3. A grant of authority issued pursuant to state or
245 federal law.

246 4. A transaction privilege tax license.

247 (g) "Unauthorized alien" means an alien who is not
248 authorized under federal law to be employed in the United
249 States, as provided in 8 U.S.C. s. 1324a(h) (3). This term shall
250 be interpreted consistently with that section and any applicable
251 federal rules or regulations.

252 (2) VERIFICATION OF EMPLOYMENT ELIGIBILITY; SUSPENSION OF
253 LICENSE.—Paragraphs (a) and (b) apply with respect to employers
254 employing 100 or more employees on or after July 1, 2012, and
255 with respect to all employers on and after July 1, 2013.

256 (a) Every employer shall use the E-Verify system to verify
257 the employment eligibility of all newly hired employees within
258 the period stipulated by federal law or regulations after the
259 hiring of the employee. However, an employer is not required to
260 verify the employment eligibility of a continuing employee hired
261 before the date of the applicability of the verification
262 requirements of this section on the employer.

263 (b) A business that has not complied with paragraph (a)
264 shall lose its license to do business in this state until the
265 business has registered with the E-Verify system and provided
266 the agency with a sworn affidavit stating that the business has
267 registered with the E-Verify system.

268 (3) EMPLOYMENT OF UNAUTHORIZED ALIENS; SUSPENSION OF
269 LICENSE.—

270 (a) An employer may not knowingly employ an unauthorized
271 alien.

272 (b) A person who has actual or constructive knowledge that
273 an employer employs, or has within the last 90 days employed, an
274 unauthorized alien may file a complaint with the agency.

275 (c) Upon the receipt of a valid complaint of a violation
276 of paragraph (a), the agency shall notify the employer of the
277 complaint and direct the employer to notify any affected
278 employees named in the complaint.

279 (d) The agency shall request that the Federal Government

280 verify, pursuant to 8 U.S.C. s. 1373(c), the employment status
 281 of any employee named in the complaint.

282 (e) If the agency has reasonable cause to believe that the
 283 employer has employed an unauthorized alien, the agency shall
 284 notify the local law enforcement agency of the presence of the
 285 unauthorized alien in the jurisdiction.

286 (f)1. Upon finding that an employer has violated paragraph
 287 (a), the agency shall order the employer to:

288 a. Terminate the employment of all unauthorized aliens;
 289 and

290 b. File a sworn affidavit with the agency within 10 days
 291 after the receipt of the order. The affidavit must state that
 292 the employer has corrected the violation by:

293 (I) Terminating the unauthorized alien's employment;

294 (II) Requesting that a second or additional verification
 295 of the alien's employment status be authorized by using the E-
 296 Verify system; or

297 (III) Attempting to terminate the unauthorized alien's
 298 employment, and such termination has been challenged in a court
 299 of competent jurisdiction.

300 2. If the employer fails to file the required affidavit,
 301 the agency shall suspend all applicable licenses held by the
 302 employer. All such licenses suspended shall remain suspended
 303 until the sworn affidavit is filed. Notwithstanding any other
 304 law, the suspended licenses shall be deemed to have been
 305 reinstated upon the filing of the affidavit. During the pendency
 306 of an action, the 10-day period shall be tolled. The 10-day
 307 period shall also be tolled for any period during which the

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308 Federal Government allows an alien to challenge the Federal
309 Government's determination of his or her immigration status or
310 employment authorization.

311 3. Licenses subject to suspension under this subsection
312 include all licenses that are held by the employer and that are
313 necessary to operate the employer's business at the location at
314 which the unauthorized alien performed work. If a license is not
315 necessary to operate the employer's business at the specific
316 location at which the unauthorized alien performed work, but a
317 license is necessary to operate the employer's business in
318 general, the licenses subject to suspension under subparagraph
319 2. include all licenses held by the employer at the employer's
320 primary place of business.

321 (g) Upon finding a second or subsequent violation of
322 paragraph (a) during a 2-year period, the agency shall suspend,
323 for at least 30 days, all licenses that are held by the employer
324 and that are necessary to operate the employer's business at the
325 location at which the unauthorized alien performed work. If a
326 license is not necessary to operate the employer's business at
327 the specific location at which the unauthorized alien performed
328 work, but a license is necessary to operate the employer's
329 business in general, the agency shall suspend all licenses held
330 by the employer at the employer's primary place of business for
331 30 days or upon compliance with paragraph (f), whichever occurs
332 later.

333 (h)1. An employer registered with and participating in the
334 E-Verify system may not be held civilly liable in a cause of
335 action for the employer's:

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336 a. Unlawful hiring of an unauthorized alien if the
337 information obtained in accordance with the E-Verify system
338 indicated that the employee's federal legal employment status
339 allowed the employer to hire the employee; or

340 b. Refusal to hire an individual if the information
341 obtained in accordance with the E-Verify system indicated that
342 the individual's federal legal employment status was that of an
343 unauthorized alien.

344 2. Any employer who properly complies with the E-Verify
345 system in good faith shall not be liable for any damages and
346 shall be immune from any legal cause of action brought by any
347 person or entity, including, but not limited to, former
348 employees, for use and reliance upon any incorrect information
349 provided by the E-Verify system when determining final action on
350 an employee's employment status.

351 3. An employer is considered to have complied with the
352 requirements of 8 U.S.C. s. 1324a(b), notwithstanding an
353 isolated, sporadic, or accidental technical or procedural
354 failure to meet the requirements, if there is a good faith
355 attempt to comply with the requirements.

356 (4) INJUNCTION.—At any time after a complaint is received,
357 an employer subject to a complaint under this section, or any
358 employee of the employer who is alleged to be an unauthorized
359 alien, may challenge and seek to enjoin the enforcement of this
360 section before a court of competent jurisdiction.

361 (5) ENFORCEMENT.—

362 (a) A person who has actual or constructive knowledge that
363 an employer employs, or has within the last 90 days employed, an

364 unauthorized alien may file a complaint with the state attorney
 365 or Attorney General. The state attorney and Attorney General may
 366 enforce this section if there is reasonable cause to believe
 367 that this section has been violated and may commence a civil or
 368 administrative action and seek such other relief as may be
 369 appropriate.

370 (b) If there is a judicial finding that an employer has
 371 violated this section, the court shall order that the employer's
 372 license be suspended in the same manner and under the same terms
 373 as provided in paragraphs (3) (f) and (g).

374 (6) NONDISCRIMINATION.—A complaint made under this section
 375 may not be based on race, color, or national origin, except to
 376 the extent permitted by the United States Constitution or the
 377 State Constitution. A person who knowingly files a false and
 378 frivolous complaint under this section commits a misdemeanor of
 379 the second degree, punishable as provided in s. 775.082 or s.
 380 775.083.

381 (7) CONSTRUCTION.—This section must be enforced without
 382 regard to race, color, or national origin and shall be construed
 383 in a manner so as to be fully consistent with any applicable
 384 provisions of federal law.

385 Section 6. Section 448.09, Florida Statutes, is
 386 transferred and renumbered as section 820.04, Florida Statutes.

387 Section 7. Effective January 1, 2012, section 287.135,
 388 Florida Statutes, is created to read:

389 287.135 Verification of immigration status; public
 390 employers.—

391 (1) As used in the section, the term:

392 (a) "Contractor" means a person who has entered or is
 393 attempting to enter into a public contract for services with a
 394 public employer.

395 (b) "E-Verify system" has the same meaning as provided in
 396 s. 820.03.

397 (c) "Knowingly employ an unauthorized alien" has the same
 398 meaning as provided in s. 820.03.

399 (d) "Public employer" means any department, agency,
 400 county, municipality, or political subdivision of the state.

401 (e) "Subcontractor" means any supplier, distributor,
 402 vendor, or firm furnishing supplies or services to or for a
 403 contractor or another subcontractor.

404 (f) "Unauthorized alien" has the same meaning as provided
 405 in s. 820.03.

406 (2) Every public employer shall use the E-Verify system to
 407 verify the employment eligibility of all newly hired employees
 408 within the period stipulated by federal law or regulations after
 409 the hiring of the employee. However, a public employer is not
 410 required to verify the employment eligibility of a continuing
 411 employee hired before the date of the applicability of the
 412 verification requirements of this section on the employer.

413 (3) (a) A public employer may not knowingly employ an
 414 unauthorized alien.

415 (b)1. A public employer registered with and participating
 416 in the E-Verify system may not be held civilly liable in a cause
 417 of action for the public employer's:

418 a. Unlawful hiring of an unauthorized alien if the
 419 information obtained in accordance with the E-Verify system

420 indicated that the employee's federal legal employment status
421 allowed the public employer to hire the employee; or

422 b. Refusal to hire an individual if the information
423 obtained in accordance with the E-Verify system indicated that
424 the individual's federal legal employment status was that of an
425 unauthorized alien.

426 2. Any public employer who properly complies with the E-
427 Verify system in good faith shall not be liable for any damages
428 and shall be immune from any legal cause of action brought by
429 any person or entity, including, but not limited to, former
430 employees, for use and reliance upon any incorrect information
431 provided by the E-Verify system when determining final action on
432 an employee's employment status.

433 3. A public employer is considered to have complied with
434 the requirements of 8 U.S.C. s. 1324a(b), notwithstanding an
435 isolated, sporadic, or accidental technical or procedural
436 failure to meet the requirements, if there is a good faith
437 attempt to comply with the requirements.

438 (4) (a) A contractor or subcontractor may not knowingly
439 employ an unauthorized alien.

440 (b)1. A public employer may not enter into a contract for
441 the physical performance of services unless the contractor
442 registers and participates in the E-Verify system.

443 2. A contractor or subcontractor may not enter into a
444 contract or subcontract with a public employer in connection
445 with the physical performance of services unless the contractor
446 or subcontractor registers with and uses the E-Verify system for
447 the purpose of verifying information of all newly hired

448 employees.

449 (c) If a contractor uses a subcontractor, the
450 subcontractor shall certify to the contractor that the
451 subcontractor, at the time of certification, does not employ or
452 contract with an unauthorized alien.

453 (d) A contractor shall maintain a copy of the
454 certification of a subcontractor throughout the duration of the
455 term of a contract with the subcontractor.

456 (e) If a contractor knows that a subcontractor is in
457 violation of this subsection, the contractor shall terminate the
458 contract with the subcontractor.

459 (f) If a public employer knows that a contractor is in
460 violation of this subsection, the public employer shall
461 immediately terminate the contract with the contractor and the
462 contractor is not eligible for public contracts for 1 year after
463 the date of termination. If the public employer has knowledge
464 that a subcontractor has violated this subsection, and the
465 contractor has otherwise complied with this subsection, the
466 public employer shall promptly notify the contractor and order
467 the contractor to terminate the contract with the noncompliant
468 subcontractor.

469 (g) Termination of a contract pursuant to paragraph (e) or
470 paragraph (f) is not a breach of contract and may not be
471 considered as such by the contractor or subcontractor.

472 (h) A contractor or subcontractor may file an action with
473 a circuit or county court having jurisdiction in the county to
474 challenge a termination of a contract under this subsection no
475 later than 20 days after the date on which the contract or

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476 subcontract was terminated.

477 (i)1. A contractor or subcontractor registered with and
478 participating in the E-Verify system may not be held civilly
479 liable in a cause of action for the contractor's or
480 subcontractor's:

481 a. Unlawful hiring of an unauthorized alien if the
482 information obtained in accordance with the E-Verify system
483 indicated that the employee's federal legal employment status
484 allowed the contractor or subcontractor to hire the employee; or

485 b. Refusal to hire an individual if the information
486 obtained in accordance with the E-Verify system indicated that
487 the individual's federal legal employment status was that of an
488 unauthorized alien.

489 2. Any contractor or subcontractor who properly complies
490 with the E-Verify system in good faith shall not be liable for
491 any damages and shall be immune from any legal cause of action
492 brought by any person or entity, including, but not limited to,
493 former employees, for use and reliance upon any incorrect
494 information provided by the E-Verify system when determining
495 final action on an employee's employment status.

496 3. A contractor or subcontractor is considered to have
497 complied with the requirements of 8 U.S.C. s. 1324a(b),
498 notwithstanding an isolated, sporadic, or accidental technical
499 or procedural failure to meet the requirements, if there is a
500 good faith attempt to comply with the requirements.

501 (5) This section shall be construed in a manner so as to
502 be fully consistent with any applicable federal law and shall be
503 enforced without regard to race, color, or national origin.

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504 Section 8. Effective January 1, 2012, section 337.163,
505 Florida Statutes, is created to read:

506 337.163 Compliance with federal work-authorization
507 program.—

508 (1) As used in this section, the term:

509 (a) "Contractor" means a person who has entered or is
510 attempting to enter into a contract with the department for
511 services under this chapter.

512 (b) "E-Verify system" has the same meaning as provided in
513 s. 820.03.

514 (c) "Knowingly employ an unauthorized alien" has the same
515 meaning as provided in s. 820.03.

516 (d) "Subcontractor" means any supplier, distributor,
517 vendor, or firm furnishing supplies or services to or for a
518 contractor or another subcontractor under this chapter.

519 (e) "Unauthorized alien" has the same meaning as provided
520 in s. 820.03.

521 (2) (a) A contractor or subcontractor may not knowingly
522 employ an unauthorized alien.

523 (b) The department may not enter into a contract under
524 this chapter for contractual services unless the contractor
525 registers and participates in the E-Verify system.

526 (c) A contractor who receives a contract award under this
527 chapter for contractual services may not execute a contract,
528 purchase order, or subcontract in connection with the award
529 unless the contractor and all subcontractors providing services
530 for the contractor register and participate in the E-Verify
531 system. The contractor shall certify in writing to the

532 department that it is in compliance with this section.

533 (d) A contractor shall ensure that each subcontractor
534 providing services for the contractor registers and participates
535 in the E-Verify system. Each subcontractor shall certify in
536 writing to the contractor that it is in compliance with this
537 section. A contractor shall maintain a copy of the certification
538 of a subcontractor throughout the duration of the term of a
539 contract with the subcontractor.

540 (e) If a contractor knows that a subcontractor is in
541 violation of this subsection, the contractor shall terminate the
542 contract with the subcontractor.

543 (f) If the department knows that a contractor is in
544 violation of this section, the department shall immediately
545 terminate the contract with the contractor and the contractor is
546 not eligible for public contracts for 1 year after the date of
547 termination. If the department has knowledge that a
548 subcontractor has violated this section, and the contractor has
549 otherwise complied with this section, the department shall
550 promptly notify the contractor and order the contractor to
551 terminate the contract with the noncompliant subcontractor.

552 (g) Termination of a contract pursuant to paragraph (e) or
553 paragraph (f) is not a breach of contract and may not be
554 considered as such by the contractor or subcontractor.

555 (h) A contractor or subcontractor may file an action with
556 a circuit or county court having jurisdiction in the county to
557 challenge a termination of a contract under this subsection no
558 later than 20 days after the date on which the contract or
559 subcontract was terminated.

560 (i) For the purposes of this subsection, compliance with
 561 paragraph (b) or paragraph (c) creates a rebuttable presumption
 562 that a contractor or subcontractor did not knowingly employ an
 563 unauthorized alien. A contractor or subcontractor that
 564 establishes that it has complied in good faith with the
 565 requirements of 8 U.S.C. s. 1324a(b) establishes an affirmative
 566 defense that the contractor or subcontractor did not knowingly
 567 employ an unauthorized alien. A contractor or subcontractor is
 568 considered to have complied with the requirements of 8 U.S.C. s.
 569 1324a(b), notwithstanding an isolated, sporadic, or accidental
 570 technical or procedural failure to meet the requirements, if
 571 there is a good faith attempt to comply with the requirements.

572 (3) This section shall be construed in a manner so as to
 573 be fully consistent with any applicable federal law and shall be
 574 enforced without regard to race, color, or national origin.

575 Section 9. Subsection (16) is added to section 901.15,
 576 Florida Statutes, to read:

577 901.15 When arrest by officer without warrant is lawful.—A
 578 law enforcement officer may arrest a person without a warrant
 579 when:

580 (16) The officer has probable cause to believe that the
 581 person to be arrested is unlawfully in the United States in
 582 violation of state and federal law.

583 Section 10. Paragraph (c) of subsection (2) of section
 584 903.046, Florida Statutes, is amended to read:

585 903.046 Purpose of and criteria for bail determination.—

586 (2) When determining whether to release a defendant on
 587 bail or other conditions, and what that bail or those conditions

588 may be, the court shall consider:

589 (c) The defendant's family ties, length of residence in
 590 the community, legal residency status in the United States,
 591 employment history, financial resources, and mental condition.

592 Section 11. Section 921.245, Florida Statutes, is created
 593 to read:

594 921.245 Illegal alien multiplier; enhanced penalties.—Upon
 595 a finding by the trier of fact that the defendant committed the
 596 charged offense while the defendant was an alien and was
 597 unlawfully present in the United States, the penalty for any
 598 felony or misdemeanor, or any delinquent act or violation of law
 599 that would be a felony or misdemeanor if committed by an adult,
 600 may be enhanced. Penalty enhancement affects the applicable
 601 statutory maximum penalty only. Each of the findings required as
 602 a basis for such sentence must be found beyond a reasonable
 603 doubt. The enhancement shall be as follows:

604 (1) (a) A misdemeanor of the second degree may be punished
 605 as if it were a misdemeanor of the first degree.

606 (b) A misdemeanor of the first degree may be punished as
 607 if it were a felony of the third degree. For purposes of
 608 sentencing under this chapter and determining incentive gain-
 609 time eligibility under chapter 944, such offense shall be ranked
 610 in level 1 of the offense severity ranking chart.

611 (2) (a) A felony of the third degree may be punished as if
 612 it were a felony of the second degree.

613 (b) A felony of the second degree may be punished as if it
 614 were a felony of the first degree.

615 (c) A felony of the first degree may be punished as if it

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616 were a life felony.

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618 For purposes of sentencing under this chapter and determining
619 incentive gain-time eligibility under chapter 944, such felony
620 offense shall be ranked as provided in s. 921.0022 or s.
621 921.0023, without regard to the penalty enhancement in this
622 subsection.

623 Section 12. If any portion of this act is declared
624 unconstitutional or the application of any part of this act to
625 any person or circumstance is held invalid, the remaining
626 portions of the act and their applicability to any person or
627 circumstance shall remain valid and enforceable.

628 Section 13. The Legislature finds that ensuring that only
629 those who are authorized to work in the United States are
630 employed in this state is an overwhelming public necessity. The
631 Legislature finds that discouraging the presence of unauthorized
632 aliens in the state and enforcing immigration laws will promote
633 public safety and is an overwhelming public necessity.

634 Section 14. Except as otherwise expressly provided in this
635 act, this act shall take effect October 1, 2011.